

The People's Court, Toronto Division

TRIAL by JURY

Tuesday, December 8, 1998, 10:00am
All Saints Church, Dundas and Sherbourne, Toronto

The Homeless People of Ontario **v.** ***The Governments of Canada and Ontario***

The Charge:

**Violation of Article 11 of the International Covenant on
Economic, Social and Cultural Rights:
The Right to Adequate Housing,
Resulting in Continued and Increasing Homelessness**

On the eve of the 50th Anniversary of the Universal Declaration of Human Rights,
the Government of Canada and the Government of Ontario
are charged with violation of Article 11 of the
International Covenant on Economic, Social and Cultural Rights (ICESCR).

This United Nations treaty, endorsed by 137 nations, is one of the key
international human rights laws developed to implement the
Universal Declaration.

1. The Law: Article 11

Canada signed a United Nations treaty in 1976, the International Covenant on Economic, Social and Cultural Rights, agreeing to use the “maximum of available resources” to ensure the “progressive realization” of, among other fundamental human rights, the following:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living ..., including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right.”

– Article 11, International Covenant on Economic, Social and Cultural Rights

2. UN Questions about Canada’s Compliance with this Law

The United Nations Committee on Economic, Social and Cultural Rights is responsible for monitoring State compliance with this law. In June 1998, as part of its third review of Canadian federal and provincial government compliance, a list of 81 questions was sent to Canada. Four related specifically to homelessness:

41. Please provide any available data on the extent of homelessness in various cities in Canada. At what point would the Government consider homelessness in Canada to constitute a national emergency?

44. According to information provided to the Committee from Statistics Canada, the percentage of government expenditure on housing has declined since 1993. There has been extensive media coverage of a growing crisis of homelessness in Toronto, Vancouver and elsewhere, emphasizing primarily charity-based efforts to address the problems. Is the Government applying the “maximum of available resources” to eliminating homelessness and does it agree that guaranteeing the right to housing is a core responsibility of Governments and a matter of the highest priority?

55. The Committee understands that a high percentage of discharged psychiatric patients are ending up homeless. Please provide as accurate evidence as is available in relation to this problem and explain what is being done to address it.

56. Please provide any information available on the particular health problems of the homeless, including tuberculosis rates, and identify any barriers faced by the homeless in getting access to appropriate health care.

The trial will focus on this most severe violation of the right to adequate housing: homelessness. Expert testimony will be provided in court on each of these four issues.

On December 4, 1998 the UN Committee on Economic, Social and Cultural Rights issued its report on Canada. It noted that “Canada has the capacity to achieve a

high level of respect for all Covenant rights” and that in “addressing the budget deficits by slashing social expenditure” the federal and provincial governments have “not paid sufficient attention to the adverse consequences for the enjoyment of economic, social and cultural rights by the Canadian population as a whole, and by vulnerable groups in particular.”

3. The Charge: Violation of Article 11, Resulting in Continued and Increasing Homelessness

In 1990, the UN Committee on Economic, Social and Cultural Rights, in a legal opinion called “General Comment No. 4 on the Right to Adequate Housing,” noted that housing rights can be violated by both *acts* and *omissions* (the failure to act).

A specific form of violation is the following:

“A general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations found in the Covenant.”

A further special United Nations report on the right to adequate housing devoted substantial attention to the issue of acts and omissions by States amounting to violations. Acts that constitute housing rights violations include, but are not limited to:

- A. ‘Adoption of legislation or policies clearly inconsistent with housing rights obligations, particularly when these result in homelessness, greater levels of inadequate housing, the inability of persons to pay for housing and so forth.’**
- B. ‘Repealing legislation consistent with, and in support of, housing rights, unless obviously outdated or replaced with equally or more consistent laws.’**
- C. ‘Unreasonable reductions in public expenditures on housing and other related areas, in the absence of adequate compensatory measures.’**
- D. ‘Overtly prioritizing the housing interests of high-income groups when significant portions of society live without their housing rights having been achieved.’**
- E. ‘Acts of racial or other forms of discrimination in the housing sphere.’**

**The Governments of Canada and Ontario
are charged with each of these specific acts or omissions.**

4. Prior UN Warning Issued to Canada in 1993 — But Ignored

In its May 1993 report on Canada, the Committee on Economic, Social and Cultural Rights pointed out that the Government of Canada had failed to even mention the existence of homeless people in the documentation submitted to the UN. Canada and the Province of Ontario still have no strategy and no specific programs to reduce or eliminate homelessness. The Committee's 1993 report noted that:

“Given the evidence of homelessness and inadequate living conditions, the Committee is surprised that expenditures on social housing are as low as 1.3 per cent of Government expenditures.”

However, according to the most recent Statistics Canada summary of government spending, in 1994-95 total housing expenditures by all three levels of government, made up 1.07 per cent of all budget expenditures. Federal government housing expenditures made up 1.14 per cent of the 1995-96 budget.

On April 26, 1993, just three weeks prior to the UN's review of Canada's compliance (May 17 and 18, 1993) the Government of Canada's budget eliminated, as of 1994, any further spending on new social housing, ending a set of programs that had been in existence since the late 1940s. By terminating the social housing supply programs, according to the budget documents, the government would save \$600 million over five years. The previous budget, tabled in February 1992, had already cut \$665 million from spending on social housing, spread over five years. Altogether, more than \$1.2 billion has been removed from Canada's efforts to meet housing needs since 1993.

In its 1993 report, the Committee expressed concern that “social and economic rights have been described as mere ‘policy objectives’ of governments rather than as fundamental human rights.” The Committee also expressed concern about “the persistence of poverty in Canada.” However, neither the Government of Canada nor any of the provincial and territorial governments has an explicit policy objective of reducing – let alone eliminating – homelessness. Poverty has grown, while spending on income assistance programs has not kept pace with inflation. The National Council of Welfare (a federal advisory group appointed by and reporting to the Minister of Human Resources Development) reported that most people living on welfare in Canada were poorer in 1996 than those who had been living on welfare in 1986.

The failure to eliminate homelessness is not due to any lack of information or understanding of the problem. One of the best blueprints for addressing Canada's housing problems is contained in a 50-page report written in 1990 by Paul Martin, the current Minister of Finance, and another member of Parliament, Joe Fontana. The report is called

Finding Room: Housing Solutions for the Future, Report of the National Liberal Caucus Task Force on Housing. Released after an extensive national consultation, the report contains 25 recommendations to improve the lot of Canada's homeless population, aboriginal people, renters and low-income homeowners. The report states:

“The federal role in housing must not be a residual one. The connection between housing and other aspects of both social and economic policy means that the federal government must take a lead role.... Our market housing system has not responded adequately to all of society's needs.... The Task Force believes that ... all Canadians have the right to decent housing, in decent surroundings, at affordable prices.”

— MP Paul Martin and MP Joe Fontana

5. UN 1998 Report: “Gravely Concerned” about Human Rights Violations

The December 4, 1998 United Nations human rights report on Canada includes the following specific criticisms:

“24. The Committee is gravely concerned that such a wealthy country as Canada has allowed the problem of homelessness and inadequate housing to grow to such proportions that the mayors of Canada's ten largest cities have now declared homelessness a national disaster.”

33. The Committee is perturbed to hear that the number of foodbanks has almost doubled between 1989 and 1997 in Canada and are able to meet only a fraction of the increased needs of the poor.

34. The Committee is concerned that the State Party did not take into account the Committee's 1993 major concerns and recommendations when it adopted policies at federal, provincial and territorial levels which exacerbated poverty and homelessness among vulnerable groups during a time of strong economic growth and increasing affluence.

35. The Committee is concerned at the crisis level of homelessness among youth and young families. According to information received from the National Council of Welfare, over 90% of single mothers under 25 live in poverty. Unemployment and under-employment rates are also significantly higher among youth than among the general population.

6. If Found Guilty

If the Government of Canada and the Government of Ontario are found guilty, the Court should order these two parties to report back to the Court within three weeks, providing an outline of the following:

- (1) **A RESPONSE Plan**: A plan to respond to the immediate needs of people currently without housing so as to prevent further harm;
- (2) **An ELIMINATION Plan**: A plan to eliminate homelessness within three to five years; and
- (3) **A PREVENTION Plan**: A plan to prevent any further people from becoming homeless.

For Further Information

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KEN FAUGHT/TORONTO STAR

DAY IN COURT: Dozens of homeless people attended the mock trial of the provincial and federal governments, charged with increasing homelessness. The court was held yesterday at the Open Door drop-in centre.

Governments put on 'trial' for increased homelessness

'People's Court' critical of rental housing cuts

BY CATHERINE DUNPHY
FEATURE WRITER

Some slept through it all on the pews behind the makeshift divide.

Two women were ejected for fighting.

But the more than 80 homeless people who sat through the mock trial of federal and provincial governments yesterday at All Saints Church's Open Door drop-in centre roundly pronounced both governments guilty of causing increased homelessness in Canada.

Stockbroker and Project Warmth co-founder John Andras and poverty activist Gian Mura sat in judgment as lawyer Peter Rosenthal made the case for the homeless. No government representatives were present.

The homeless were echoing Friday's ruling from the United Nations committee on Social, Economic and Cultural Rights. That committee's report as-

sessed how Canada was living up to an international covenant on economic, social and cultural rights, which Canada signed in August, 1976, guaranteeing an individual's universal right to adequate housing.

The report was described in news reports as "toughly worded." It stated there were deep and grave concerns about poverty and homelessness in this country and singled out Ontario's welfare cuts and workfare program.

"This is the second time in five years the United Nations has been critical of Canada," said University of Toronto housing professor David Hulchanski. "This is the longest and most negative report issued any nation."

Hulchanski unveiled a document listing all the rental housing projects cancelled by the Harris government, which stretched across almost the full width of the church.

"About 45,000 people could have been living in these housing units now if they had not been cancelled," Hulchanski said.

One of them might have been Billy, 51, who wept a little on

the makeshift stand as he apologized for his hoarse voice. "I'm ill from sleeping outside," he said. He had to stop speaking every few words to catch his breath.

He has chronic bronchial asthma, arthritis and cancer. He often sleeps in Allan Gardens, at Gerrard St. E and Sherbourne St.

Until Oct. 14, he had a house-keeping room on Pembroke St., he said, but was evicted after an altercation with the landlord. When he is very ill he goes to a hostel to sleep, he said.

"I feel discomfort inside. There is a lot of rowdiness," he said. "I have hypersensitive hearing. I get tense."

A former steeplejack and night porter for Beaver Foods, he said he worked until his cancer diagnosis in 1994.

"I have tried my best to find housing," he said.

Another homeless person said she has been in hostels and on the street for six months since a bank manager and eight sheriffs showed up at her door to evict her because her landlord had defaulted on his mortgage payments.

"I get a little money, but af-

fordable housing is impossible to come by — for me anyway," said Jacqueline.

And lawyer Lenny Abramowicz said the homeless situation in Toronto will only get worse.

The head of Neighbourhood Legal Services said Ontario's new Tenants' Protection Act "guarantees an increase in homelessness."

Later, street worker Beric German said the trial was held for the benefit of the homeless in the room.

"We wanted to reinforce the fact this problem of homelessness has been caused outside of them. They are not to blame," he said.

Most of the people using the drop-in centre, near Dundas St. E and Sherbourne St., left to go outside the church for a smoke. About a dozen of the homeless people lined up for their mail.

But one man, Stephen, stayed behind. He said he used to be in advertising, was once a stockbroker and there were "thousands of reasons" why he was now staying at a hostel run by the Salvation Army.

"I learned something today," he said.